



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.16328 of 2018 &
Crl.M.P.No.8414 of 2018

1. Krishnamoorthy
2. K.Kuppuraj
3. Satheesh
4. Senthilkumar

... Petitioners

Vs

- 1.The State rep. by
The Inspector of Police,
Sathiyamangalam Police Station,
Erode District.
(Crime No.172 of 2018)

- 2.R.Subbaiyan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records pursuant to the case in Crime No.172 of 2018 on the file of the 1st respondent and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.V.P.K.Gowtham

For Respondents : R1 - Mr.R.Kishore Kumar,
Government Advocate (Criminal Side)

R2 - Mr.N.Manokaran

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.172 of 2018 on the file of the 1st respondent filed against the petitioners for the offence punishable under Sections 423, 447, 463, 464, 467, 468, 470, 471 of I.P.C.

2. The crux of the allegations in the FIR is that originally one Ammasi Gounder is the owner of 3 acres and 1/4th share in the common well. The total extent of land is 5.33 acres out of which the said Ammasi Gounder purchased three acres



and 1/4th share in the common well on 11.06.1975. Remaining 2.33 acres was purchased by one Kannamal on the same day with 1/4th share in the common well. Thereafter, both of them again purchased the remaining half share in the well in the year 1984. when the dispute arose between them with regard to the extent of the property purchased by them, a suit in O.S.No.474 of came to be filed by A2 and A3 for declaration and injunction which culminated in to second appeal in S.A.No.826 of 2015 and the Second Appeal was allowed holding that the plaintiffs and the fourth defendant are entitled to half share in the available common extent of 48 cents and it is also observed that it is open to the parties, to file a suit for partition, if so advised with the status of co-owners.

3. Further the allegation is that after the disposal of the second appeal, the vendors of the petitioners herein registered a Court decree suppressing all these facts, sold the property. Therefore they have committed an offence.

4. Heard both sides.

5. A perusal of the FIR primarily indicate that the dispute between the parties is nothing but civil dispute, which has already culminated into a second appeal and the Court also declared the rights of the parties only in the common area, i.e., well, and the parties are advised to go for partition. Without resorting to division of the property by mets and bounds and filing a suit for partition, the civil litigation has been given a colour of criminal offence. This is a classic case where the criminal machinery is set in motion for a civil dispute where the Courts cannot declare the rights merely on the basis of the injunction and declaration suit filed by the parties. However, the parties are directed to go for partition. Such being the position, directing the investigation agency to continue the investigation is nothing but abuse of process of law.

6. Accordingly, this Criminal Original Petition is allowed and the First Information Report in Crime No.172 of 2018 on the file of the first respondent. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vrc / kbs



To

1.The Inspector of Police,
Sathiyamangalam Police Station,
Erode District.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.N.Manokaran, Advocate SR. No.5361

Crl.O.P.No.16328 of 2018

GP (CO)

PR (24/02/2022)